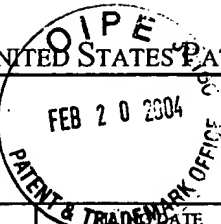


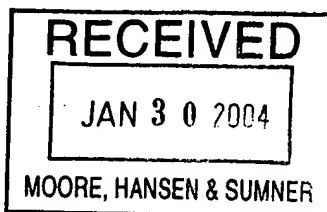
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**UNITED STATES PATENT AND TRADEMARK OFFICE**

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
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APPLICATION NO.	DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,138	05/25/2001	Charles M. Schmeichel	A20-012-01-US	4445

22854 7590 01/26/2004

MOORE, HANSEN & SUMNER  
2900 WELLS FARGO CENTER  
90 SOUTH SEVENTH STREET  
MINNEAPOLIS, MN 55402



EXAMINER

PEDDER, DENNIS H

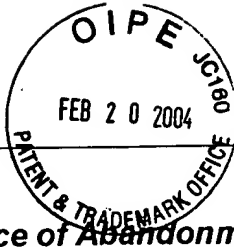
ART UNIT PAPER NUMBER

3612

DATE MAILED: 01/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED  
MAR - 1 2004  
GROUP 3600



# Notice of Abandonment

Application No.

09/866,138

Examiner

Dennis H. Pedder

Applicant(s)

SCHMEICHEL, CHARLES M.

Art Unit

3612

RECEIVED

MAR - 1 2004

GROUP 3600

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

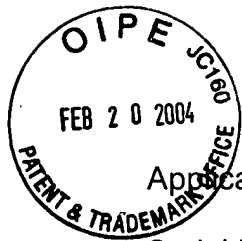
1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_\_.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

The reply of 7/25/2003 continues to incorrectly list the claims per Rule 173 in that claims 15-18, 30, 32-38 all newly added to the patented claims, are not indicated by underlining relative to the patented claims. Since the statutory period for reply to the office action of 6/11/2003 has expired, this application must be abandoned.

Dennis H. Pedder  
Primary Examiner  
Art Unit: 3612

petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Applicant: Schmeichel, Charles M.

) Docket No.: A20-012-01-US

Serial No.: 09/866,138

) Group Art Unit: 3612

Filed: May 6, 2003

) Examiner: Pedder, Dennis H.

For: TONNEAU COVER TENSION  
ADJUSTER APPARATUS

)

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

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## PETITION UNDER 37 C.F.R. §1.10(e)

Dear Sir:

We are now writing to request the withdrawal of the Notice of Abandonment for the above-identified application mailed January 26, 2004. The abandonment is inappropriate in view of the response to the outstanding Office Communications timely filed with a Request for a One-Month Extension of Time on July 25, 2003

Enclosed, please find copies of each of the documents filed in response to the outstanding Office Action filed on July 25, 2003. These documents show that the number of the "Express Mail" mailing label was placed on the response and on the request for extension of time to respond. The Express Mail receipt is also enclosed showing a "date in" notation and a postal stamp from the Loop Station in Minneapolis, Minnesota indicating the Express Mail envelope was received on July 25, 2003. In addition, a copy is enclosed of the postcard receipt received by the undersigned attorney from the U.S Patent and Trademark Office indicating that the amendment and related

## CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.10)

Express Mail Label No. EV 384324899 USDate of Deposit: February 20, 2004

I hereby certify that this correspondence is, on the date shown below, being deposited with the United States Postal Service "Express Mail" Service under 37 CFR 1.10, in an envelope addressed to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

Nichole Williams  
Print Name of Person Mailing Correspondence

*Nichole Williams*  
[Signature]

documents were received in the U.S Patent and Trademark Office and confirming the July 25, 2003 submission date. Also enclosed is a copy of the Notice of Abandonment mailed January 26, 2004.

Also enclosed is a signed Declaration from Susan J. Anderson who has confirmed in the Declaration that she deposited the Express Mail envelope containing the respective documents in the U.S. Postal Service Office at the Loop Station in Minneapolis, Minnesota on July 25, 2003.

If further information is required, the Examiner is urged to contact the undersigned attorney at the telephone number provided below to obtain such information on an expedited basis. The Examiner's consideration in this regard will be appreciated. Thank you.

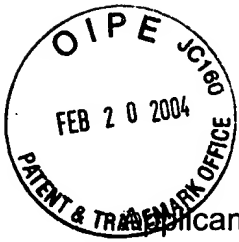
If any fees are due and appropriate with respect to the present matter, Examiner is authorized to charge any such fees to the Deposit Account of the law firm of the undersigned attorney, Deposit No. 13-4300. Thank you.

Respectfully submitted,  
for the Applicant  
by his Attorneys,

MOORE, HANSEN & SUMNER  
Customer No. 22854  
2900 Wells Fargo Center  
90 South Seventh Street  
Minneapolis, Minnesota 55402  
(612) 332-8200

Date: February 20, 2004

By: Robert C. Freed  
Robert C. Freed, Registration No. 32,569



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Schmeichel, et al. ) Docket No.: A20-012-01-US  
Serial No.: 09/866,138 )  
Filed: May 25, 2001 ) Group Art Unit: 3634  
For: TONNEAU COVER TENSION ) Examiner: Pedders  
ADJUSTER APPARATUS )

Commissioner for Patents  
Alexandria, VA. 22313-1450

Dear Sir:

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GROUP 3600

**AFFIDAVIT OF SUSAN J. ANDERSON**

I, Susan J. Anderson, depose and say:

That I have been a Legal Assistant employed at Moore, Hansen & Sumner, the firm of attorneys which represents the Applicants of U.S. Patent Application Serial No. 09/866,138 for TONNEAU COVER TENSION ADJUSTER APPARATUS;

That on July 25, 2003, I delivered an Express Mail envelope containing respective documents identified on the post card receipt enclosed therewith to the U.S. Postal Service Office at the Loop Station in Minneapolis, Minnesota and received a Express Mail Receipt from the postal employee who received the Express Mail Envelope from me.

I further understand that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section

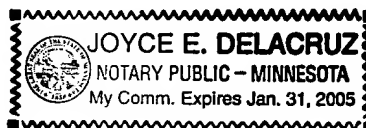
1001 of Title 18, United States Code, and that such willful false statements may jeopardize the validity of the above-identified application.

Susan J. Anderson  
Susan J. Anderson

STATE OF MINNESOTA )  
                                  ) ss.  
COUNTY OF HENNEPIN )

Before me personally appeared Susan J. Anderson, by me known to be the person described in the foregoing affidavit, who signed the affidavit in my presence and made oath before me to the allegations set forth therein on this 9th day of February, 2004.

Joyce E. Delacruz  
Notary Public



AMENDMENT TRANSMITTAL LETTER  
Under Small Entity Status

Attorney Docket No:  
A20-012-01-US

Application Serial Number:  
09/866,138

Filing Date:  
May 25, 2001

Examiner:  
Pedder, Dennis H.

Group Art Unit:  
3612

Invention: **TONNEAU COVER TENSION ADJUSTER APPARATUS**

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

Transmitted herewith is an amendment in the above-identified application. The fee has been calculated as shown below.

CLAIMS AS AMENDED

	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	NO. OF EXTRA CLAIMS PRESENT	RATE	ADDITIONAL FEE
TOTAL CLAIMS	23	MINUS	32	0	\$9	\$ 0
INDEP. CLAIMS	9	MINUS	10	0	\$42	\$ 0

☒ Petition is hereby made under 37 CFR 1.136(a) to extend the time for response to the Office Action of July 11, 2003 to and through August 11, 2003 comprising an extension of the shortened statutory period of:

☒ one month (\$55) ☐ three months (\$460)  
☐ two months (\$200) ☐ four months (\$720)

TOTAL ADDITIONAL FEE FOR THIS AMENDMENT

☒ Small entity status of this application under 37 CFR 1.9 and 1.27 has been claimed.

☒ An unsigned Declaration by Applicant is enclosed.

☐ A verified statement to establish small entity status under 37 CFR 1.9 and 1.27 is enclosed.

☒ A check in the amount of \$55.00 to cover the extension fee is attached.

☒ Please charge any additional fees which may be required, or credit any overpayment to Deposit Account 13-4300

July 25, 2003

Date

Robert C. Freed

Robert C. Freed, Reg. No. 32569

EV343281292US

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.10)

Express Mail Label No. EV 343281292 US

Date of Deposit: July 25, 2003

I hereby certify that this correspondence is, on the date shown below, being deposited with the United States Postal Service "Express Mail" Service under 37 CFR 1.10, in an envelope addressed to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

Susan J. Anderson

Print Name of Person Mailing Correspondence

Susan J. Anderson  
[Signature]

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Applicant: Schmeichel, Charles M. ) Docket No.: A20-012-01-US  
Serial No.: 09/866,138 )  
Filed: May 25, 2001 ) Examiner: Pedder, Dennis H.  
For: TONNEAU COVER TENSION ) Art Unit: 3612  
ADJUSTER APPARATUS )

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

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**GROUP 3600**

**AMENDMENT**

Dear Sir:

The Office Communications mailed November 6, 2002, June 11, 2003 and July 16, 2003, have been carefully read and considered.

To address issues raised by the Examiner in the outstanding Office Action for the application, please enter the following amendments:

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.10)	
Express Mail Label No. <u>EV 343281292</u> <u>US</u>	Date of Deposit: <u>July 25, 2003</u>
I hereby certify that this correspondence is, on the date shown below, being deposited with the United States Postal Service "Express Mail" Service under 37 CFR 1.10, in an envelope addressed to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450	
<u>Susan J. Anderson</u> Print Name of Person Mailing Correspondence	<u>Susan J. Anderson</u> [Signature]

IN THE CLAIMS

Please amend the claims as follows:

1. (Currently Amended) An adjustable assembly for a cargo box cover for use on a cargo box having upwardly extending left and right side walls, [a front wall and a rear end gate wall, said walls defining the boundaries of the cargo box,] the cargo box cover having [a] left and right side rails [rail] connected to said left and right side walls [wall], respectively, an elongate tensioning rail having [a] left and right ends, [end] said elongate tensioning rail extending from said left side rail to said right side rail, and [further having] a flexible cover fixedly attached to [along] said elongate tensioning rail, said adjustable assembly comprising:

[a] left and right adjustable threaded screw connection mechanisms; the threaded screw connection mechanisms including respective left and right secured portions secured [block means connected] to said left and right side rails [rail], respectively; [a] respective left and right adjustable portions [attachment block means] connected to said left and right end of said tensioning rail respectively; and respective [an] adjustable [connection means for connecting said tensioning rail to said left and right rail] screws interconnecting the respective adjustable portions to the respective secured portions, the adjustable assembly further including a graduated measuring scale on said left and right side rail so as to provide a measurement guide for accurate adjustment of the respective left and right sides of the tensioning rail with respect to the left and right side rail.

5. (Cancelled).. Claim 5 is cancelled without prejudice.

6. (Currently Amended) The [An] adjustable assembly of [as in] claim 4, [5] wherein said hole defined by said front and rear block sections is of a larger diameter than said threaded tension screw.

8. (Currently Amended) An adjustable tonneau cover for a cargo box having [that comprises] upwardly extending left and right side walls, a front wall, and a rear end gate wall said walls defining the boundaries of the cargo box, the adjustable tonneau cover [assembly] comprising:

a flexible cover;

[a] left and right side rails [rail] connectable [connected] to said left and right side walls [wall] respectively;

an elongate tensioning rail having [a] left and right ends [end] said tensioning rail extending from said left side rail to said right rail; the flexible cover being secured to the elongate tensioning rail; and

left and right adjustable threaded screw connection mechanisms including:

[a] left and right securing blocks [block means]; said securing blocks being connected to said left and right side rails [rail] respectively;

[a] left and right adjustable engaging [attachment] blocks [block means connected to];  
said adjustable engaging blocks being engaged with said left and right ends [end] of  
said tensioning rail, respectively; and

[an] left and right adjustable connection mechanisms [means for] connecting the  
respective securing blocks to the respective adjustable engaging blocks [said tensioning  
rail to said left and right rail] ; the adjustable tonneau cover further including a graduated  
measuring scale on each of said left and right rail so as to provide a measurement  
guide for accurate adjustment of said left and right ends of said tensioning rail with  
respect to the left and right side rails, respectively.

12. (Cancelled). Claim 12 is cancelled without prejudice.

13. (Currently Amended) The [An] adjustable tonneau cover of [for a cargo box as in]  
claim 11 [12], wherein said openings [hole] defined by said front and rear block sections  
are [is] of a larger diameter than said threaded tension screw.

15. (Currently Amended) An adjustable assembly for a tonneau cover used to cover a  
pickup truck cargo box, the cargo box having a plurality of upwardly extending walls,  
said plurality of upwardly extending walls including left and right side walls, [a front wall  
and a rear end gate wall,] said plurality of upwardly extending walls at least partially  
defining an interior compartment of the cargo box, the adjustable assembly comprising:

left and right side rails connected to said left and right side walls, respectively;

an elongate tensioning rail having left and right ends, said tensioning rail extending from the left side rail to the right side rail, the tonneau cover attached to the tensioning rail;  
and

left and right adjustable threaded screw adjustment mechanisms, each of the respective adjustable threaded screw adjustment mechanisms having [left and right] side rail securing portions [attachment bracket mechanisms] connected to [said left and right] the respective side rails[, respectively]; and [left and right] tensioning rail engagement [attachment] members engaged with said elongate tensioning rail; wherein each of said left and right side rail securing portions [attachment bracket mechanisms] include a threaded screw member, and each of the threaded screw members are positioned and arranged such that a force can be placed upon [on] the elongate tensioning rail by each of the threaded screw members as said screw member is adjustably manipulated to force [drive] the tensioning rail away from the respective side rail securing portion [attachment bracket mechanism, thereby placing greater tension on the tonneau cover] ; wherein the tensioning rail includes a tensioning rail attachment chamber and each of said left and right tensioning rail engagement members is engaged within the tensioning rail attachment chamber.

16. (Cancelled). Claim 16 is cancelled without prejudice.

17. (Currently Amended) The adjustable assembly of claim 15 [16], wherein each of said left and right tensioning rail engagement [attachment] members extends below the side rail with which it is engaged such that the tensioning rail is restrained from being

lifted away from the respective side rails when the respective engagement [attachment] members are engaged with the respective side rails.

30. (Currently Amended) An adjustable assembly for a tonneau cover used to cover a pickup truck cargo box having a plurality of upwardly extending walls, said plurality of upwardly extending walls including left and right side walls, [a front wall and a rear end gate wall,] said plurality of upwardly extending walls at least partially defining an interior compartment of the cargo box, the adjustable assembly comprising:

left and right side rails connected to said left and right side walls, respectively;

an elongate tensioning rail having left and right ends, said elongate tensioning rail extending from said left side rail to said right side rail, the tonneau cover being attached to the elongate tensioning rail;

left and right side rail securing blocks [attachment block mechanisms] connected to said left and right side rails, respectively; and

left and right tensioning rail engagement [attachment] blocks slidingly engaged with said left and right ends of said elongate tensioning rail, respectively, and adjustably engaged with [each slidingly engaging] the respective side rails [rail] proximate the respective ends of the elongate tensioning rail such that the elongate tensioning rail is adjustably [slidingly] engaged with the opposing left and right side rails and movable with respect thereto [in a generally orthogonal, constrained manner]; wherein the left and right side rail securing blocks [attachment block mechanisms] include left and right screw

members adjustably interconnecting the respective tensioning rail engagement blocks with the respective side rail securing blocks [contacting said tensioning rail].

33. (Currently Amended) An adjustable tonneau cover apparatus for attachment to a cargo box of a pickup truck, the cargo box having a plurality of upwardly extending walls, said plurality of upwardly extending walls including left and right side walls, the adjustable tonneau cover apparatus comprising:

a flexible tonneau cover;

left and right side rails attachable to said left and right side walls, respectively;

left and right adjustable threaded screw attachment mechanisms secured to the left and right side rails, respectively; each of the left and right threaded screw attachment mechanisms having a secured portion, secured to the respective side rail, and an adjustable portion; wherein the adjustable portion can be moved further away from or closer to the secured portion by adjusting the respective threaded screw attachment mechanism;

a tensioning rail engaged with a first end of the flexible tonneau cover; the tensioning rail having left and right ends, which are moveable further away from the secured portion of the respective threaded screw attachment mechanism, to place a greater tension on the tonneau cover, when the left and right side rails are attached to the left and right side walls, respectively, the respective ends of the tensioning rail are slidingly engaged with the adjustable portions of the respective adjustable threaded

screw attachment mechanism and the respective adjustable threaded screw attachment mechanisms are adjusted to move the adjustable portion further away from the secured portion.

35. (Currently Amended) A method of maintaining an appropriate tension on a flexible tonneau cover attached to a cargo box of a pickup truck, the pickup truck cargo box having a plurality of upwardly extending walls, said plurality of upwardly extending walls including left and right side walls, said plurality of upwardly extending walls at least partially defining an interior compartment of the cargo box; the method comprising the steps of:

attaching an adjustable tonneau cover securing apparatus to the cargo box of the pickup truck, the step of attaching including securing the adjustable tonneau cover securing apparatus to left and right side walls of the cargo box; the adjustable tonneau cover securing apparatus including: left and right side rails attachable to said left and right side walls, respectively; left and right adjustable threaded screw attachment mechanisms secured to the left and right side rails, respectively; and a tensioning rail engaged with a first end of the flexible tonneau cover; each of the left and right threaded screw attachment mechanisms having a secured portion, secured to the respective left or right side rail; and an adjustable portion; wherein the adjustable portion can be moved further away from or closer to the secured portion by adjusting the respective threaded screw attachment mechanism; the tensioning rail having left and right ends, which are moveable further away from the secured portion of the respective threaded screw attachment mechanism to place a greater tension on the tonneau cover when the left and right side rails are attached to the left and right side walls of the cargo box,

respectively; the respective ends of the tensioning rail being slidingly engaged with the adjustable portions of the respective adjustable threaded screw attachment mechanism and the respective adjustable screw attachment mechanisms being adjustable to move the adjustable portion further away from the secured portion; and

adjusting the respective adjustable threaded screw attachment mechanisms to move the adjustable portion further away from the secured portion.

APPENDIX

For the convenience of the Examiner and the Patent Office Printing Office, an Appendix is provided below listing all of the claims as originally filed or subsequently added by amendment and showing all deletions and additions as compared to the originally filed or added claims, as well as cancellations to date, whether or not such amendments or cancellations are currently made in the present Amendment.

1. (Amended) An adjustable assembly for a cargo box cover for use on a cargo box having upwardly extending left and right side walls, [a front wall and a rear end gate wall, said walls defining the boundaries of the cargo box,] the cargo box cover having [a] left and right side rails [rail] connected to said left and right side walls [wall], respectively, an elongate tensioning rail having [a] left and right ends, [end] said elongate tensioning rail extending from said left side rail to said right side rail, and [further having] a flexible cover fixedly attached to [along] said elongate tensioning rail, said adjustable assembly comprising:

[a] left and right adjustable threaded screw connection mechanisms; the threaded screw connection mechanisms including respective left and right secured portions secured [block means connected] to said left and right side rails [rail], respectively; [a] respective left and right adjustable portions [attachment block means] connected to said left and right end of said tensioning rail respectively; and respective [an] adjustable [connection means for connecting said tensioning rail to said left and right rail] screws interconnecting the respective adjustable portions to the respective secured portions, the adjustable assembly further including a graduated measuring scale on said left and right side rail so as to provide a measurement guide for accurate adjustment of the

respective left and right sides of the tensioning rail with respect to the left and right side rail.

2. (Amended) The [An] adjustable assembly of [as in] claim 1, [wherein] each of said left and right secured portions having [block means connected to said left and right rail comprises a] front and rear block sections [section] connected to a base block section so as to define a space between said front and rear block section, said front and rear block sections further defining a hole in an aligned orientation so as to pass through said front and rear block sections [section] and across the [said] space between the [said] front and rear block sections.

3. (Amended) The [An] adjustable assembly of [as in] claim 2, wherein each of said left and right adjustable portions include [attachment block means comprises] an attachment block section having an elongate threaded [treaded] tension screw fixedly attached to said attachment block section and extending through said front and rear block sections spanning the [said] space between the [said] front and rear block sections.

4. (Amended) The [An] adjustable assembly of [as in] claim 3, further comprising a screw adjustment knob between said front and rear block section defining an inner threaded hole for receiving said threaded tension screw.

5. (Cancelled without prejudice)

6. (Amended) The [An] adjustable assembly of [as in] claim 4, [5] wherein said hole defined by said front and rear block sections is of a larger diameter than said threaded tension screw.

7. (Amended) The [An] adjustable assembly of [as in] claim 1, wherein said left and right secured portions are [block means is] fixedly connected to said left and right side rails [end of said tensioning rail] and said left and right adjustable portions are engaged with [attachment block means is fixedly connected to] said left and right ends of said tensioning rail.

8. (Amended) An adjustable tonneau cover for a cargo box having [that comprises] upwardly extending left and right side walls, a front wall, and a rear end gate wall said walls defining the boundaries of the cargo box, the adjustable tonneau cover [assembly] comprising:

a flexible cover;

[a] left and right side rails [rail] connectable [connected] to said left and right side walls [wall] respectively;

an elongate tensioning rail having [a] left and right ends [end] said tensioning rail extending from said left side rail to said right rail; the flexible cover being secured to the elongate tensioning rail; and

left and right adjustable threaded screw connection mechanisms including;

[a] left and right securing blocks [block means]; said securing blocks being connected to said left and right side rails [rail] respectively;

[a] left and right adjustable engaging [attachment] blocks [block means connected to]; said adjustable engaging blocks being engaged with said left and right ends [end] of said tensioning rail, respectively; and

[an] left and right adjustable connection mechanisms [means for] connecting the respective securing blocks to the respective adjustable engaging blocks [said tensioning rail to said left and right rail] ; the adjustable tonneau cover further including a graduated measuring scale on each of said left and right rail so as to provide a measurement guide for accurate adjustment of said left and right ends of said tensioning rail with respect to the left and right side rails, respectively.

9. (Amended) The [An] adjustable tonneau cover of [for a cargo box as in] claim 8, [wherein] each of the [said] left and right securing blocks [block means connected to said left and right rail comprises a] having front and rear block sections [section] connected to a base block section so as to define a space between the [said] front and rear block sections, the [said] front and rear block sections further defining openings [a hole] in an aligned orientation so as to pass through both of said front and rear block sections [section across said space between said front and rear block sections].

10. (Amended) The [An] adjustable tonneau cover of [for a cargo box as in] claim 9, wherein each of said left and right adjustable engaging blocks [attachment block means

comprises] includes an attachment block section having an elongate treaded tension screw fixedly attached to said attachment block [section] and extending through said front and rear block sections spanning the [said] space between the [said] front and rear block sections [section].

11. (Amended) The [An] adjustable tonneau cover of [for a cargo box as in] claim 10, further comprising a screw adjustment knob between said front and rear block sections [section] defining an inner threaded opening [hole] for receiving said threaded tension screw.

12. (Cancelled without prejudice)

13. (Amended) The [An] adjustable tonneau cover of [for a cargo box as in] claim 11 [12], wherein said openings [hole] defined by said front and rear block sections are [is] of a larger diameter than said threaded tension screw.

14. (Amended) The [An] adjustable tonneau cover of [for a cargo box as in] claim 8, wherein said left and right securing blocks are [block means is] fixedly connected to said left and right side rails, respectively [end of said tensioning rail], and said left and right attachment blocks are [block means is] fixedly connected to the respective ends of the tensioning rail [said left and right rail].

15. (Amended) An adjustable assembly for a tonneau cover used to cover a pickup truck cargo box, the cargo box having a plurality of upwardly extending walls, said plurality of upwardly extending walls including left and right side walls, [a front wall and

a rear end gate wall,] said plurality of upwardly extending walls at least partially defining an interior compartment of the cargo box, the adjustable assembly comprising:

left and right side rails connected to said left and right side walls, respectively;

an elongate tensioning rail having left and right ends, said tensioning rail extending from the left side rail to the right side rail, the tonneau cover attached to the tensioning rail;  
and

left and right adjustable threaded screw adjustment mechanisms, each of the respective adjustable threaded screw adjustment mechanisms having [left and right] side rail securing portions [attachment bracket mechanisms] connected to [said left and right] the respective side rails[, respectively]; and [left and right] tensioning rail engagement [attachment] members engaged with said elongate tensioning rail; wherein each of said left and right side rail securing portions [attachment bracket mechanisms] include a threaded screw member, and each of the threaded screw members are positioned and arranged such that a force can be placed upon [on] the elongate tensioning rail by each of the threaded screw members as said screw member is adjustably manipulated to force [drive] the tensioning rail away from the respective side rail securing portion [attachment bracket mechanism, thereby placing greater tension on the tonneau cover] ; wherein the tensioning rail includes a tensioning rail attachment chamber and each of said left and right tensioning rail engagement members is engaged within the tensioning rail attachment chamber.

17. (Amended) The adjustable assembly of claim 15 [16], wherein each of said left and right tensioning rail engagement [attachment] members extends below the side rail with which it is engaged such that the tensioning rail is restrained from being lifted away from the respective side rails when the respective engagement [attachment] members are engaged with the respective side rails.

18. (Amended) The adjustable assembly of claim 15, wherein each of the [pair of] threaded screw members is engaged in coaxially aligned[, reciprocally threaded] openings in each of the respective side rail securing portions [attachment bracket mechanisms].

19. (Cancelled)

20. (Cancelled)

21. (Cancelled)

22. (Cancelled)

23. (Cancelled)

24. (Cancelled)

25. (Cancelled)

26. (Cancelled)

27. (Cancelled)

28. (Cancelled)

29. (Cancelled)

30. (Amended) An adjustable assembly for a tonneau cover used to cover a pickup truck cargo box having a plurality of upwardly extending walls, said plurality of upwardly extending walls including left and right side walls, [a front wall and a rear end gate wall,] said plurality of upwardly extending walls at least partially defining an interior compartment of the cargo box, the adjustable assembly comprising:

left and right side rails connected to said left and right side walls, respectively;

an elongate tensioning rail having left and right ends, said elongate tensioning rail extending from said left side rail to said right side rail, the tonneau cover being attached to the elongate tensioning rail;

left and right side rail securing blocks [attachment block mechanisms] connected to said left and right side rails, respectively; and

left and right tensioning rail engagement [attachment] blocks slidingly engaged with said left and right ends of said elongate tensioning rail, respectively, and adjustably engaged with [each slidingly engaging] the respective side rails [rail] proximate the respective ends of the elongate tensioning rail such that the elongate tensioning rail is adjustably [slidingly] engaged with the opposing left and right side rails and movable with respect thereto [in a generally orthogonal, constrained manner]; wherein the left and right side rail securing blocks [attachment block mechanisms] include left and right screw members adjustably interconnecting the respective tensioning rail engagement blocks with the respective side rail securing blocks [contacting said tensioning rail].

31. (Cancelled)

32. A method of maintaining an appropriate tension on a tonneau cover secured to a cargo box of a pickup truck, the pickup truck cargo box having a plurality of upwardly extending walls, said plurality of upwardly extending walls including left and right side walls, a front wall and a rear end gate wall, said plurality of upwardly extending walls at least partially defining an interior compartment of the cargo box; the method comprising:

attaching a tonneau cover and a tonneau cover attachment frame having a tonneau cover adjustment mechanism to the pickup truck, the tonneau cover attachment frame including left and right side rails which are connected to said left and right side walls, respectively; an elongate tensioning rail having left and right ends, said tensioning rail extending from the left side rail to the right side rail, the tonneau cover attached to the tensioning rail; left and right side rail attachment bracket mechanisms connected to said left and right side rails, respectively; the elongate tensioning rail

including left and right tensioning rail attachment members engaged with said tensioning rail and positioned and arranged to sliding secure the elongate tensioning rail to the respective side rails; wherein each of said left and right side rail attachment bracket mechanisms include a threaded screw member, and each of the threaded screw members are positioned and arranged such that a force can be placed on the elongate tensioning rail by each of the threaded screw members as each said screw member is adjustably manipulated to drive the tensioning rail away from the respective attachment bracket mechanism, thereby placing greater tension on the tonneau cover; and

manipulating the respective attachment bracket mechanisms so as to drive the tensioning rail away from the respective attachment bracket mechanism, thereby placing greater tension on the tonneau cover following the step of attaching, at such time as it is desirable to place a greater tension on the tonneau cover.

33. (Amended) An adjustable tonneau cover apparatus for attachment to a cargo box of a pickup truck, the cargo box having a plurality of upwardly extending walls, said plurality of upwardly extending walls including left and right side walls, the adjustable tonneau cover apparatus comprising:

a flexible tonneau cover;

left and right side rails attachable to said left and right side walls, respectively;

left and right adjustable threaded screw attachment mechanisms secured to the left and right side rails, respectively; each of the left and right threaded screw attachment mechanisms having a secured portion, secured to the respective side rail, and an adjustable portion; wherein the adjustable portion can be moved further away from or closer to the secured portion by adjusting the respective threaded screw attachment mechanism;

a tensioning rail engaged with a first end of the flexible tonneau cover; the tensioning rail having left and right ends, which are moveable further away from the secured portion of the respective threaded screw attachment mechanism, to place a greater tension on the tonneau cover, when the left and right side rails are attached to the left and right side walls, respectively, the respective ends of the tensioning rail are slidingly engaged with the adjustable portions of the respective adjustable threaded screw attachment mechanism and the respective adjustable threaded screw attachment mechanisms are adjusted to move the adjustable portion further away from the secured portion.

34. The adjustable tonneau cover securing apparatus of claim 33, wherein the respective adjustable threaded screw attachment mechanisms include a screw that passes through an opening in the secured portion.

35. (Amended) A method of maintaining an appropriate tension on a flexible tonneau cover attached to a cargo box of a pickup truck, the pickup truck cargo box having a plurality of upwardly extending walls, said plurality of upwardly extending walls including

left and right side walls, said plurality of upwardly extending walls at least partially defining an interior compartment of the cargo box; the method comprising the steps of:

attaching an adjustable tonneau cover securing apparatus to the cargo box of the pickup truck, the step of attaching including securing the adjustable tonneau cover securing apparatus to left and right side walls of the cargo box; the adjustable tonneau cover securing apparatus including: left and right side rails attachable to said left and right side walls, respectively; left and right adjustable threaded screw attachment mechanisms secured to the left and right side rails, respectively; and a tensioning rail engaged with a first end of the flexible tonneau cover; each of the left and right threaded screw attachment mechanisms having a secured portion, secured to the respective left or right side rail; and an adjustable portion; wherein the adjustable portion can be moved further away from or closer to the secured portion by adjusting the respective threaded screw attachment mechanism; the tensioning rail having left and right ends, which are moveable further away from the secured portion of the respective threaded screw attachment mechanism to place a greater tension on the tonneau cover when the left and right side rails are attached to the left and right side walls of the cargo box, respectively; the respective ends of the tensioning rail being slidingly engaged with the adjustable portions of the respective adjustable threaded screw attachment mechanism and the respective adjustable screw attachment mechanisms being adjustable to move the adjustable portion further away from the secured portion; and

adjusting the respective adjustable threaded screw attachment mechanisms to move the adjustable portion further away from the secured portion.

36. An adjustable assembly for a cargo box cover for use on a cargo box having upwardly extending left and right side walls, the cargo box cover having left and right side rails connected to said left and right side walls, respectively, an elongate tensioning rail having left and right ends, said elongate tensioning rail extending from said left side rail to said right side rail, and a flexible cover fixedly attached to said elongate tensioning rail, said adjustable assembly comprising:

left and right adjustable threaded screw connection mechanisms; the threaded screw connection mechanisms including respective left and right secured portions secured to said left and right side rails, respectively; respective left and right adjustable screws engaged with the elongate tensioning rail so that the respective screws can be adjusted to force the elongated tensioning rail incrementally further away from the respective, left and right, secured portions.

37. The adjustable assembly of claim 36, wherein said left and right secured portions are fixedly connected to said left and right side rails and said left and right adjustable portions are engaged with said left and right ends of said tensioning rail.

38. An adjustable assembly for a tonneau cover used to cover a pickup truck cargo box, the cargo box having a plurality of upwardly extending walls, said plurality of upwardly extending walls including left and right side walls, said plurality of upwardly extending walls at least partially defining an interior compartment of the cargo box, the adjustable assembly comprising:

left and right side rails connected to said left and right side walls, respectively;

an elongate tensioning rail having left and right ends, said tensioning rail extending from the left side rail to the right side rail, the tonneau cover attached to the tensioning rail; and

left and right adjustable threaded screw adjustment mechanisms, each of the respective adjustable threaded screw adjustment mechanisms having side rail securing portions connected to the respective side rails; wherein each of said left and right side rail securing portions include a threaded screw member, and each of the threaded screw members are positioned and arranged such that a force can be placed upon the elongate tensioning rail by each of the threaded screw members as said screw member is adjustably manipulated to force the tensioning rail away from the respective side rail securing portion.

REMARKS

The Office Communications mailed November 6, 2002, June 11, 2003 and July 16, 2003 have been carefully considered. In response, claims 1, 6, 8, 13, 15, 17, 30, 33 and 35 have been amended and claims 5, 12 and 16 have been cancelled without prejudice. Claims 1, 8 and 15 have been amended to clarify the invention for which protection is sought. Recitation from the respective dependent claims noted to contain allowable subject matter has been added to each of these claims. Claims 6, 13 and 17 have been amended to change the claim from which each of the respective claims depend in view of the cancellation of each of the respective underlying claims. Claims 30, 33 and 35 have been amended to clarify the invention by adding the word "slidingly" to the phrase "being slidingly engaged" to indicate that the engaged elements are engaged in a manner allowing them to slide with respect to other elements. Claims 1, 6, 8, 13, 15, 17, 30, 33 and 35 having been amended and claims 5, 12 and 16 having been cancelled without prejudice, the present claims are claims 1-4, 6-11, 13-15, 17-18, 30, and 32-38. Following a telephone discussion with the Examiner on July 23, 2003, regarding the present Application, an Appendix to the claims section included above was prepared to clarify amendments made to the claims in previous Office Actions and in the present Amendment. This clarification is intended to be helpful in preparation of appropriate text for any reissue application which may subsequently issue from the present application. In view of the amendments to the claims, favorable consideration is respectfully requested.

In paragraphs 2 and 3 of the Office Communication mailed November 6, 2002, claims 1-18, 30, and 32-38 are rejected as being based upon a defective reissue declaration and it is noted that the reissue oath/declaration filed with the application is defective because it fails to identify at least one error which is relied upon to support the

reissue application. In response, an unsigned declaration is submitted herewith for review by the Examiner. The applicant will sign and submit the unsigned declaration in due course, if the unsigned declaration is suitable. The Examiner's consideration of the unsigned declaration is respectfully requested. Thank you.

In paragraph 6 of the Office Communication mailed November 6, 2002, claims 1, 2-3, 7-10, 14-15, 30, and 33-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over either the prior art as admitted by applicant or Wheatley, U.S. Patent No. 5,934,735, in view of Buratovich. Although amendments have been made to the claims to bring certain of the claims into condition for allowance, the Section 103 rejection is respectfully traversed and the applicant reserves the right to pursue claims similar to the original claims in this or a subsequent application. It is the applicant's contention that one skilled in the art of making tonneau covers would not look to the art of canvas securement to determine how to create greater tension upon a tonneau cover secured to a cargo box of a pickup truck. Therefore, insofar as the outstanding rejection may be applied to either the amended or original claims, reconsideration and withdrawal is respectfully requested.

In paragraph 8 of the Office Communication mailed November 6, 2002, the Examiner has noted that certain claims would be allowable if rewritten to overcome the rejection under 35 U.S.C. 251. The Examiner's remarks in this regard are noted with appreciation. In order to secure allowance of certain claims, amendments have been made to claims having recitations similar to those cited by the Examiner as providing allowable subject matter. At the same time, the applicant respectfully reserves the right to seek further protection for his invention through claims similar to those which have now been amended.

In view of the foregoing, favorable consideration is respectfully requested and a further indication of allowable subject matter is sought.

Enclosed is a Petition for a One Month Extension of Time to extend the one-month deadline for filing in response to the June 11, 2003 communication from the Examiner, which was due July 11, 2003, thereby extending the deadline for response to the present communication to August 11, 2003. A check for the required fee is enclosed herewith.

Please charge any further fees required to effect these requests to the undersigned attorneys' deposit account, Deposit Account No. 13-4300. Thank you.

If the undersigned attorney can be of any assistance to the Examiner in respect to further steps to bring the present application into condition for allowance, the Examiner is urged to contact the undersigned attorney at the telephone number provided below. The Examiner's consideration in this regard will be appreciated. Thank you.

Respectfully submitted,  
for the Applicant  
by his Attorneys,

MOORE, HANSEN & SUMNER  
Customer No. 22854  
2900 Wells Fargo Center  
90 South Seventh Street  
Minneapolis, Minnesota 55402  
(612) 332-8200

Date: July 25, 2003

By: Robert C. Freed  
Robert C. Freed, Registration No. 32,569

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Schmeichel, Charles M. ) Docket No.: A20-012-01-US  
Serial No.: 09/866,138 )  
Filed: May 25, 2001 ) Examiner: Pedder, Dennis H.  
For: TONNEAU COVER TENSION )  
ADJUSTER APPARATUS )

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

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## DECLARATION

Dear Sir/Madam:

Charles M. Schmeichel declares that he is the original and first inventor of the invention described in the above-identified Application; that he believes the original patent (U.S. Patent No. 5,906,407) is wholly or partly inoperative or invalid by reason of the patentee claiming less than the patentee had a right to claim in the patent because the attorney who prepared and filed the original application failed to appreciate the full scope of the invention, so much so that the claims initially filed with the underlying application, and subsequently issued as a part of U.S. Patent No. 5,906,407 were so narrowly drawn as to inadequately define and protect his invention; so much so that new claims are necessary to adequately claim the full scope of his invention and to provide him the full scope of patent protection allowed under U.S. Patent Laws, specifically, that the original independent claims 1 and 8 as filed and ultimately allowed are limited to claims reciting an adjustable assembly comprising: a left and right block means . . . ; a left and right attachment block means... ; and an adjustable connection

means . . . ; and an adjustable cover for a cargo box, comprising: a left and right rail . . . ; an elongated tensioning rail . . . ; a left and right block means . . . ; a left and right attachment block means . . . ; and an adjustable connection means . . . . In addition, nowhere among the original claims or the claims which ultimately issued in the aforementioned patent were there claims directed to an apparatus for varying the position of an end rail of a tonneau cover attachment frame used to secure a tonneau cover to a pickup truck cargo box, comprising: a first adjustment block mechanism . . . ; and a first tensioning screw . . . ; or directed to a shifting apparatus which operatively contacts an end rail of a tonneau cover frame for attaching a tonneau cover to a cargo box of a pickup truck, the apparatus comprising: a first adjustment block mechanism . . . ; and a second adjustment block mechanism . . . . Furthermore, the original claims did not include among them any method claims such as a method of maintaining an appropriate tension on a tonneau cover secured to a cargo box of a pickup truck. Furthermore, the recitation in claim 1 includes an article, "a", or "an" prior to recitations to "left and right block means", "left and right attachment block means" and "adjustable connection means". It is believed that the use of an article to make reference to means of accomplishing a specified task unduly narrows the claims. Amendments to claim 1 are proposed to delete the articles "a" and "an" at the beginning of recitations to the aforementioned means recitations. For these reasons, the Applicant does not believe the issued claims fully claim the invention for which patent protection was sought, and believes that errors were made in seeking protection for the invention; that all errors which are being corrected in the present application up to the time of filing of the present declaration arose without any deceptive intention on the part of the Applicant; that all statements made herein of his own knowledge are true and that all statements

made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18, United States Code, and that such willful false statements may jeopardize the validity of the application or any registration resulting therefrom.

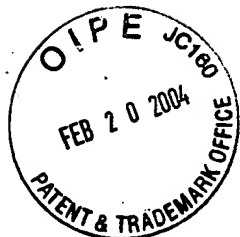
All communications should be addressed to:

Robert C. Freed  
Moore, Hansen & Sumner  
Suite 2900  
90 South Seventh Street  
Minneapolis, MN 55402  
Tel: 612-332-8200  
Fax 612 332-1780

Respectfully submitted,

Date: \_\_\_\_\_

By \_\_\_\_\_  
Charles M. Schmeichel



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Schmeichel, Charles M. ) Docket No.: A20-012-01-US  
Serial No.: 09/866,138 )  
Filed: May 25, 2001 )  
For: TONNEAU COVER TENSION )  
ADJUSTER APPARATUS )

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Dear Sir or Madam:

**REQUEST FOR EXTENSION OF TIME TO RESPOND TO OFFICIAL ACTION**

Applicant, through counsel, respectfully requests a one month extension of time, or such extension of time as is necessary, to respond to the Office communication of June 11, 2003, presently due July 11, 2003. Our check in the amount of \$55.00 is enclosed herewith. Please charge any deficiencies, additional fees or surcharges necessary to make this response timely to the Deposit Account of the undersigned firm of attorneys, Deposit Account No. 13-4300, and credit overpayment thereto.

Respectfully submitted,

MOORE, HANSEN & SUMNER  
Customer No. 22854  
2900 Wells Fargo Center  
90 South Seventh Street  
Minneapolis, Minnesota 55402  
(612) 332-8200

ATTORNEYS FOR APPLICANT

Date: July 25, 2003

By: Robert C. Freed  
Robert C. Freed, Registration No. 32,569

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- Our Check No. 7487 in the amount of \$55.00
- Unsigned Declaration of Charles M. Schmeichel
- Certificate of Express Mailing
- Return Receipt Postcard

**In re:** Applicant: Schmeichel, C.

**Title:** TONNEAU COVER TENSION ADJUSTER APPARATUS

**Attorney:** Robert C. Freed; Atty. Reg. No.: 32,569

**Serial No.** 09/866,138

**Date mailed:** July 25, 2003

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**Attorney:** Robert C. Freed; Atty. Reg. No.: 32,569

**Serial No.** 09/866,138

**Date mailed:** July 25, 2003

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